

## Message Text

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ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 TRSE-00 ERDA-05 AID-05 CEA-01

CIAE-00 CIEP-01 COME-00 DODE-00 EB-07 FPC-01 H-02

INR-07 INT-05 NSAE-00 NSC-05 OMB-01 PM-04 SAM-01

OES-03 SP-02 SS-15 STR-04 FEA-01 SSO-00 NSCE-00

INRE-00 USIE-00 EA-07 /087 R

DRAFTED BY L/ARA:DAGANTZ

APPROVED BY ARA:AFISHLOW

TREASURY:FMARESCA

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FM SECSTATE WASHDC

TO AMEMBASSY LIMA IMMEDIATE

C O N F I D E N T I A L STATE 032708

E.O. 11652: GDS

TAGS: PFOR, EINV, EIND, EMIN, PE

SUBJECT: MARCONA - FUEL SURCHARGE

1. AS EMBASSY WILL RECALL IN COURSE OF LUNCHEON AT RESIDENCE JANUARY 29 BROUSETT TOLD MEMBERS OF US GROUP ABOUT A PROBLEM WHICH HAD ARISEN IN THE COURSE OF RUBINA'S DISCUSSION WITH JAPANESE STEEL PRODUCERS. BROUSETT SAID THAT RUBINA HAD TOLD HIM THAT THE JAPANESE HAD AGREED IN EARLY 1974 TO MAKE ADDITIONAL PAYMENTS TO MARCONA - OVER AND ABOVE THE C & F CONTRACT PRICE - TO COVER FUEL INCREASES NOT ONLY FOR SHIPPING BUT FOR PRODUCTION IN PERU. RUBINA ALLEGEDLY REPORTED THAT EACH OF THESE CHARGES AMOUNTED TO \$2 PER TON AND THAT THEY HAD NOT BEEN REPORTED AS INCOME ON EITHER PERUVIAN OR US TAX RETURNS. BROUSETT WAS OBVIOUSLY UPSET BY WHAT HE BELIEVED TO BE A REVELATION

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OF CONCEALED INCOME ON MARCONA'S PART AND FELT THEY MIGHT

CONSTITUTE A SOURCE OF PRE-PAID COMPENSATION. WE HAVE DISCUSSED THIS ISSUE WITH MARCONA; BASED ON THOSE DISCUSSIONS WE HAVE DRAFTED A STATEMENT OF EXPLANATION WHICH SHOULD BE GIVEN TO BROUSSET IN THE FORM OF A LETTER FROM DR. FISHLOW, TEXT OF WHICH FOLLOWS:

QUOTE

DEAR JOSE LUIS:

IN THE COURSE OF OUR DISCUSSIONS TWO WEEKS AGO, YOU RELATED TO ME SOME SERIOUS QUESTIONS RAISED BY ALBERTO RUBINA WITH RESPECT TO PAYMENTS MADE BY JAPANESE ORE CONSUMERS TO MARCONA OVER AND ABOVE THE CONTRACT PRICES DURING THE PERIOD FEBRUARY 1974-JULY 1975. AT THAT TIME I SAID THAT I WOULD INVESTIGATE THE SITUATION WITH RESPECT TO THESE ADDITIONAL CHARGES. I HAVE DONE SO.

AS YOU KNOW, PRICES OF BUNKER C FUEL OIL INCREASED GREATLY DURING THE LAST MONTHS OF 1973. THESE INCREASES, WHICH HAD A SIGNIFICANT EFFECT ON MARCONA'S OPERATIONS BOTH FROM A PRODUCTION AND A TRANSPORTATION POINT OF VIEW, WERE NOT, OF COURSE, CONTEMPLATED AT THE TIME LONG-TERM SALES CONTRACTS WERE NEGOTIATED. IN 1974, THEREFORE, MARCONA ENTERED INTO DISCUSSIONS WITH ITS JAPANESE RECEIVERS AND NEGOTIATED SPECIAL SURCHARGES TO COVER INCREASED COST OF SHIPPING AND OF PRODUCTION.

MARCONA WAS COMPENSATED BY THE CONSUMING MILLS FOR PRICES OF FUEL EXCEEDING AGREED LEVELS. (IN THE COURSE OF THE ARRANGEMENTS WE UNDERSTAND THAT MARCONA ABSORBED A LARGE PROPORTION OF THESE ADDITIONAL COSTS THEMSELVES.) THE SURCHARGE WAS CALCULATED ON THE BASIS OF THE NUMBER OF TONS OF FUEL CONSUMED BY A VESSEL ON A PARTICULAR VOYAGE, AND THE PROCEEDS WERE INCLUDED IN LETTERS OF CREDIT FOR INDIVIDUAL SHIPMENTS COLLECTED AT THE SAME TIME ORE SALES PROCEEDS WERE COLLECTED. AS THESE CHARGES WERE BASED ON SHIPPING, THEY DID NOT AFFECT THE FOB PRICE AND THUS DID NOT AFFECT MARCONA MINING COMPANY DIRECTLY, BUT BECAME EARNINGS OF MARCONA CARRIERS OR MARCONA INTERNATIONAL

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AND WERE REPORTED TO US TAX AUTHORITIES AS SUCH.

IN ADDITION TO THE SURCHARGE ON BUNKER C USED IN TRANSPORTATION, MARCONA ALSO NEGOTIATED A SURCHARGE TO COMPENSATE FOR INCREASED PRODUCTION COSTS OF IRON ORE PRODUCTS IN PERU. THIS SURCHARGE WAS MADE NECESSARY BY THE INCREASE IN PRICE FROM \$4.41 TO \$16.04 PER BARREL ON PETROPERU DELIVERIES OF BUNKER C FUEL TO MARCONA. THE

SURCHARGE AGREED UPON SO AS TO PROVIDE PARTIAL COMPENSATION FOR THE INCREASE WAS BASED ON THE AMOUNT OF FUEL USED IN THE PRODUCTION OF EACH IRON ORE PRODUCT, \$2 PER DRY LONG TON FOR PELLETS AND .68 FOR PELLET FEED. (THERE WAS NO PRODUCTION FUEL SURCHARGE FOR SINTER FEED.) SIMILAR RATES WERE IN EFFECT FOR OTHER AREAS. WE UNDERSTAND THAT THESE SURCHARGES WENT INTO EFFECT FOR MOST RECEIVERS OF PERUVIAN IRON ORE PRODUCTS, ALTHOUGH IN

A FEW CASES (PRIMARILY IN THE UNITED STATES AND EUROPE) AS CONTRACTS EXPIRED THE RENEWED CONTRACTS INCORPORATED THE SURCHARGE IN AN INCREASED CONTRACT SALES PRICE.

THESE ADDITIONAL CHARGES WERE PAID IN THE FORM OF A SURCHARGE AND INCLUDED IN THE LETTER OF CREDIT FOR EACH SHIPMENT. WE UNDERSTAND THAT IN EACH CASE THEY WERE SEPARATELY IDENTIFIED AND PASSED ON IN THEIR ENTIRETY TO MARCONA MINING COMPANY AND MARCONA INTERNATIONAL AT THE TIME OF SETTLEMENT OF EACH ORE SHIPMENT, AS AN ADDITION TO THE FOB VALUE. THE TOTAL AMOUNT OF THE BUNKER C PRODUCT SURCHARGE IN EFFECT FROM FEBRUARY 1, 1974, TO JULY 24, 1975, AMOUNTED TO \$9,510,288. THE SUMS PAID AS AN ADDITION TO THE FOB PRICES WERE INCLUDED IN MARCONA'S PERUVIAN GROSS INCOME FOR 1974 AND 1975, AND WERE REPORTED TO THE PERUVIAN TAX AUTHORITIES AS SUCH. THIS SHOULD BE EASILY VERIFIABLE.

THUS, MARCONA APPEARS TO HAVE PROPERLY TREATED THE SURCHARGE AS A PART OF MARCONA MINING COMPANY'S PERUVIAN INCOME AND TO HAVE REPORTED IT AS SUCH. I HOPE THIS CLARIFIES THE INITIAL CONFUSION SURROUNDING THIS QUESTION. FEEL FREE TO CONTACT ME WITH ANY FURTHER INQUIRIES.

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SINCERELY, ALBERT FISHLOW, DEPUTY ASSISTANT SECRETARY  
FOR INTER-AMERICAN AFFAIRS

END QUOTE KISSINGER

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## Message Attributes

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